

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Richard Kessler**

Docket No. **268030**

L.C. No. **01-010096 FH**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because the defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). See also *People v Houlihan*, ___ Mich ___ (2008) (No. 128340, decided April 18, 2008), citing *Simmons v Kapture*, ___ F3d ___ (Docket No. 03-2609), for the rule that *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed2d 552 (2005), does not have retroactive application.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN - 5 2008

Date

Sandra Schultz Mengel

Chief Clerk